

(35)
10/21/02
asm

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

**JODY K. BUTTS, individually and
as parent and natural guardian for
RASHUN SUNCAR and LEQUINN
BUTTS, Minors, and MARK A.
MARTIN, JR., individually,**

Plaintiffs

v.

**CITY OF YORK, OFFICER CURTIS
D. BEHM, OFFICE NICHOLAS W.
FIGGE, and POLICE COMMISSIONER
HERBERT GROCIK,**

Defendants

CIVIL NO. 1:CV-00-1893

FILED
HARRISBURG, PA

OCT 21 2002

MARY E. D'ANDREA, CLERK
Per asm
Deputy Clerk

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the court is the motion for summary judgment of Defendants City of York and Police Commissioner Herbert Grofcsik.


On September 10, 2002, Defendants filed their motion for summary judgment, brief in support, and the unsworn declarations of Keith Ressler and Defendant Grofcsik. (Docs. 30-33). On September 26, 2002, Plaintiffs filed a memorandum of law indicating that they do not oppose the moving defendants' motion for summary judgment. (Doc. 34).

The Third Circuit has held that prior to granting an unopposed motion for summary judgment the district court must determine that the moving party is

entitled to judgment as a matter of law. See Anchorage Associates v. Virgin Islands Board of Tax Review, 922 F.2d 168, 175, 178 (3d Cir. 1990) (dealing with a motion for summary judgment that the non-moving party failed to oppose in accordance with the Local Rules). We have reviewed the Defendants' motion for summary judgment, brief in support, and unsworn declarations. Based on that review, we conclude that Defendants are entitled to judgment as a matter of law.

AND NOW, this 21st day of October, 2002, upon consideration of Defendants' motion for summary judgment, filed September 10, 2002, IT IS HEREBY ORDERED that:

1. The motion is granted.
2. The Clerk of Court shall enter judgment in favor of Defendants City of York and Police Commissioner Herbert Grofesik and against the Plaintiffs as to the aforementioned defendants.


CHRISTOPHER C. CONNER
United States District Judge